

Tuesday, November 03, 2015

The Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, met in regular session at 9:00 AM.

PRESENT: Supervisors: Frank R. Mecham, Bruce S. Gibson, Adam Hill, Lynn Compton and Chairperson Debbie Arnold

ABSENT: None

THE PLEDGE OF ALLEGIANCE IS LED BY CHAIRPERSON DEBBIE ARNOLD.

Consent Agenda – Review and Approval:

1-7. This is the time set for consideration of the Consent Agenda.

Chairperson Arnold: opens the floor to public comment.

The action taken for Consent Agenda items 1 through 7 on the following vote is indicated for each item.

Motion by: Frank R. Mecham
Second by: Adam Hill

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Items: Set for Hearing:

1. Introduction of an ordinance implementing the County Fee Schedule "A" for Calendar Year 2016 and Fee Schedule "B" for Fiscal Year 2016-17. Hearing date set for November 24, 2015. All Districts.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Administrative Office Items:

2. Request to approve the Board of Supervisors meeting calendar for 2016. All Districts.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Health Agency Items:

3. Request for permission to apply for a grant in the amount of \$60,000 to prevent overdose deaths due to opiates throughout the county. All Districts.

Mr. Jeff Hamm – Health Agency Director: replaces page 26 of 40 in Attachment 1.

This item is amended by replacing page 26 of 40 in Attachment 1. Further, the Board approves as recommended by the County Administrative Officer and as amended by this Board.

4. Request to approve a FY 2015-16 renewal contract with San Luis Coastal Unified School District not to exceed \$85,408 to provide drug and alcohol counseling services. Districts 2, 3 and 5.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Planning & Building Items:

5. Request to approve a contract (Clerk's File) with the Center for Natural Lands Management (CNLM), in the amount of \$74,741 for the preparation of the California Valley Lot Acquisition Program (CVLAP). District 5.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Social Services Items:

6. Request to approve the 2015-2020 San Luis Obispo County California Child and Family Services Review System Improvement Plan (Clerk's File) to identify policies, resources, and action steps that will be taken to further improve the services provided to foster youth and families. All Districts.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Sheriff - Coroner Items:

7. Request to authorize a budget adjustment in Fund Center 136 Sheriff-Coroner from the CAL ID Trust Fund approve in the amount of \$166,600 to enhance the capability of the Sheriff's Office Crime Lab to process and compare fingerprints, replace end of life technology systems, and provide county and municipal patrol personnel with cameras capable of capturing comparison-quality photographs of fingerprint images for submission to the Crime Lab for analysis and amend the fixed asset list in Fund Center 136 Sheriff-Coroner. All Districts.

The Board approves as recommended by the County Administrative Officer.

Public Comment Period:

8. This is the time set for members of the public to address the Board on matters that are not scheduled on the agenda.

Mr. Larry Prayer and Ms. Bev Prayer - Town Criers: announce their participation in the 2015 World Town Criers Tournament held in Otago, New Zealand.

Dr. C. Hite: highlights various positive things happening in the community.

Mr. Eric Greening: states more time is necessary to review the sewage sludge ordinance Draft Environmental Impact Report.

Ms. Victoria Meredith: discusses the Peer Advisory and Advocacy Team (PAAT) and the support they provide.

Ms. Julie Tacker: states in Los Osos a Town Hall meeting and the Community Services District (CSD) meeting are being held concurrently; comments on the adjudication process for the Los Osos Basin; and a recent audit by the Auditor-Controller to the Los Osos CSD.

Mr. Gary Kirkland: discusses private property rights.

Ms. Cindy Steinbeck: speaks to a quiet title action; a "Prior Agreement" regarding protection of water rights; and questions its validity.

Ms. Linde Owen (photographs); Mr. Ben DiFatta; and Mr. Richard Margetson: address various comments and concerns regarding Los Osos and the Los Osos Wastewater Project (LOWWP).

Ms. Laurie Gage: discusses an upcoming hearing calling for an election on the formation of a Paso Robles Basin Water District and the Proposition 218 voting process.

Ms. Nell Langford: addresses the hazards from the Pier Avenue ramp during storms and urges it be

shut down. **No action taken.**

Hearings:

9. Hearing to consider adoption of the 2015-2020 Analysis of Impediments to Fair Housing Choice / Fair Housing Plan of the County of San Luis Obispo (“Fair Housing Plan”). All Districts. Staff recommends continuance of this item to March 8, 2016.

Chairperson Arnold: opens the floor to public comment.

Dr. C. Hite: speaks.

The Board continues this item to Tuesday, March 8, 2016.

Motion by: Adam Hill
Second by: Bruce S. Gibson

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

10. Hearing to consider the petition of the Board of Trustees of the Atascadero Unified School District to cancel \$25 million of authorized but unissued general obligation bonds; and to approve the resolution to cancel said bonds. District 5.

Ms. Jackie Martin – Atascadero Unified School District Assistant Superintendent: speaks.

Chairperson Arnold: opens the floor to public comment without response.

The Board: 1) conducts a public hearing pursuant to the provisions of California Education Code section 15200 et seq. on the petition of the Board of Trustees of the Atascadero Unified School District (hereafter referred to as “the District” or “the AUSD”) to cancel \$25 million of authorized but unissued general obligation bonds that were approved by the voters of the AUSD on November 2, 2010; and 2) RESOLUTION NO. 2015-290, a resolution ordering the cancellation of certain authorized but unissued general obligation bonds of the Atascadero Unified School District in the aggregate principal amount of \$25,000,000, adopted.

Motion by: Frank R. Mecham
Second by: Lynn Compton

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Board Business:

11. Request to create two Energy Efficiency projects to implement eight energy conservation measures at multiple County facilities; authorize budget adjustments in the amount of \$1,715,332 to FC 200 - Maintenance Projects and \$3,049,446 to FC 230 - Capital Projects to fund the two new energy conservation projects; accept a loan agreement with the California Energy Commission for \$2,200,000 to assist in funding the project; and approve the Work Order with Pacific Gas & Electric (PG&E) to commence the Design-Build implementation of the projects. All Districts.

(This item is amended, per the addendum to the agenda, to: 1) replace the CEC loan agreement

attachment with the fully executed signed agreement and add pagination; 2) replace the PG&E Work Order attachment with an updated copy with signatures and correct pagination; and 3) amend the staff report under Financial Considerations, to correct that the CEC loan agreement has a 13-year term, not a 16-year term.)

Chairperson Arnold: opens the floor to public comment without response.

The Board: 1) approves the creation of two energy efficiency projects, WBS 350123- Energy Efficiency Maintenance Projects, and WBS 320070- Energy Efficiency Capital Projects; 2) approves the loan agreement with the California Energy Commission to assist in funding the project; 3) approves the use of PG&E’s Energy Efficiency Retrofit Loan Program, also known as On-Bill Financing (OBF) to help fund the project; 4) authorizes budget adjustments, in the amount of \$1,715,332 to Fund Center (FC) 200 - Maintenance Projects and \$3,049,446 to FC 230 - Capital Projects, to fund the two new energy conservation projects consisting of: a. \$2,200,000 California Energy Commission loan, b. \$767,495 in On-Bill Financing from PG&E, c. \$1,199,787 by appropriating existing funds from the County Solar & Energy Designation, d. \$315,001 in Countywide Maintenance and Countywide Energy & Water Funds, and e. \$282,495 from a cancelled planned project budgeted in FC 230 – Capital Projects; and 5) approves the Work Order with PG&E, to enter into agreement to proceed with the Design-Build implementation of the Energy Conservation measures.

Motion by: Adam Hill
Second by: Bruce S. Gibson

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Closed Session Items:

12. The Board announces they will be going into Closed Session regarding:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code section 54956.9.) It is the intention of the Board to meet in closed session concerning the following items: (1) Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of section 54956.9. Number of potential cases: Two; (2) Initiation of litigation pursuant to paragraph (4) of subdivision (d) of section 54956.9. Number of potential cases: Two.

CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION (Government Code section 54956.9.) It is the intention of the Board to meet in closed session concerning the following items: Existing Litigation (Gov. Code, section 54956.9(a)). (Formally initiated.) (3) Mesa Community Alliance v. State of California Department of Parks and Recreation, et al.

CONFERENCE WITH LABOR NEGOTIATOR (Government Code section 54957.6.) It is the intention of the Board to meet in closed session to have a conference with its Labor Negotiator, Tami Douglas-Schatz, concerning the following employee organizations: (4) San Luis Obispo Government Attorney’s Union (SLOGAU); (5) San Luis Obispo County Employees Association – Trades and Crafts (SLOCEA-T&C); (6) Deputy County Counsel’s Association (DCCA); (7) Sheriffs’ Management; (8) San Luis Obispo County Probation Peace Officers’ Association (SLOCPPOA); (9) Deputy Sheriff’s Association (DSA); (10) District Attorney Investigators’ Association (DAIA); (11) San Luis Obispo County Probation Managers’ Peace Officers’ Association (SLOCPMPOA); (12) San Luis Obispo County Employees Association – Public Services, Supervisors, Clerical (SLOCEA – PSSC); (13) Unrepresented Management and Confidential Employees; and (14) Association of San Luis Obispo County Deputy Sheriffs (ASLOCDS).

Chairperson Arnold: opens the floor to public comment without response.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: no report required as no final action was taken and the Board goes into Open Public Session.

Presentations:

13. Presentation by Charles Crellin of the Avila Beach local area of the County's Business Improvement District (CBID) of the 2015 Amgen Tour Winner Jersey. District 3.

Mr. Charles Crellin and Mr. Chuck Davison – Visit San Luis Obispo County President Chief Executive Officer: speak.

Chairperson Arnold: opens the floor to public comment without response.

The Boards accepts the framed jersey of Peter Sagan, the Pismo Beach to Avila Beach Stage Winner and Overall Winner of the 2015 Amgen Tour of California.

14. Submittal of a resolution recognizing November as National Adoption Month in San Luis Obispo County. All Districts.

Mr. Christopher Monza – Department of Social Services: speaks.

Chairperson Arnold: opens the floor to public comment without response.

RESOLUTION NO. 2015-291, a resolution proclaiming November as “National Adoption Month” in San Luis Obispo County, adopted.

Motion by: Adam Hill
Second by: Lynn Compton

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

15. Submittal of a resolution proclaiming November 2015 as "Thank a Veteran Month" in San Luis Obispo County. All Districts.

Mr. Paul Porter: speaks.

Chairperson Arnold: opens the floor to public comment.

Mr. Greg Shearer: speaks.

RESOLUTION NO. 2015-292, a resolution proclaiming November 2015 as “Thank a Veteran Month” in San Luis Obispo County, adopted.

Motion by: Frank R. Mecham
Second by: Adam Hill

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Hearings:

16. Hearing to consider an appeal by James Bigelow of the Planning Commission’s approval of the application of Ethnobotanica for a Minor Use Permit (DRC2014-00070) to establish a medical

marijuana dispensary and construct related tenant improvements in an existing building at 2122 Hutton Road, approximately 3 miles south of Nipomo; exempt from CEQA. District 4.

Board Members: disclose their ex-parte communications relating to this hearing.

Mr. Airlin Singewald – Department of Planning and Building: clarifies the Planning Commission approved the proposed project by a 3 to 1 vote with Commissioner Don Campbell absent, not a 4 to 1 vote as stated in the staff report.

Board Members: question the level of service measurement for Hutton Road; the daily average count; mobile dispensaries; use restrictions; the location of the building; traffic issues; and new legislation on medical marijuana, with staff responding.

Ms. Rita Neal – County Counsel: provides copies of documentation presented to the Board by Sheriff Ian Parkinson.

Mr. John Belsher – Representing the Appellant (powerpoint); Ms. Stephanie Kiel – Applicant (powerpoint); and Mr. Mike Barr – Representing the Applicant: speak.

Chairperson Arnold: opens the floor to public comment.

Sheriff-Coroner Ian Parkinson; District Attorney Dan Dow; Santa Maria Police Chief Ralph Martin; Santa Maria Mayor Alice Patimo; Mr. Edwin Weaver – Fighting Back Santa Maria Valley Executive Director; Dr. C. Hite; and Mr. Jim Kosvaner: speak.

On motion of Supervisor Bruce S. Gibson, seconded by Supervisor Adam Hill, the Board unanimously agrees to continue the meeting past 5:00 P.M.

Mr. Pete Sysak; Mr. Jeffrey Germond; Ms. Lauren Stevens; Ms. Mary Oliver; Ms. Rebecca Larsen; Mr. Kit Carter; Mr. Dick Wright; Mr. Arlyn Bunton; Mr. Aaron Johnson; Mr. Hal Galvan; Ms. Gina Armstrong; Mr. Rich Besco; Ms. Giselle Naylor; Ms. Emily Taylor; Ms. Toni Paradis; Mr. Peter Hopkins; Ms. Cassandra Flores; Mr. Alex Nunez; Mr. Eric Fenton; Mr. Geoff Roberts; Mr. Jack Stevens; Mr. Sean Donahoe; Mr. Chad Harris; and Mr. Michael Pirozzi: speak.

Ms. Kiel and Mr. James Bigelow - Appellant: provide closing statements.

California Highway Patrol Captain Mike Bueno: expresses his opinion on this matter at Supervisor Compton's request.

Supervisor Compton: outlines her concerns regarding this project: the South County Advisory Council denied the appeal by majority vote; the potential project ramifications on the Central Coast; the location; the traffic concerns; the response time; and the oppositions expressed by law enforcement, the Santa Maria Mayor, Highway Patrol, and citizens in the subdivision.

On motion by Supervisor Lynn Compton, seconded by Chairperson Debbie Arnold, to grant the appeal and deny the project based on the evidence and testimony presented today, is discussed.

Supervisors Hill and Gibson: state the project meets the Land Use Ordinance requirements and no evidence has been presented to deny the appeal.

Chairperson Arnold: addresses her concerns regarding health and safety impacts; traffic congestion; citizen complaints; and law enforcement concerns.

Supervisor Mecham: states he supports the motion based on law enforcement's testimony.

Supervisor Compton: clarifies her motion to grant the appeal and deny the project based on the evidence and testimony presented today which includes: 1) the evidence and testimony presented today does not support the proposed findings as set forth in Attachment 1 of the staff report; 2) new State Legislation, which regulates the selling and growing of marijuana, will soon be in place and will address the issues raised today, including the health and safety of the public; therefore it is in the public's best interest to wait until those regulations are in place before granting a permit for a dispensary; 3) the testimony of law enforcement and officials supporting the motion that this facility

will increase crime, drug use, and negatively impact the health and safety and general warfare of the community; 4) due to its specific location, law enforcement response times will be delayed; and 5) there is evidence of traffic impact.

Mr. Singewald: presents new findings based on the evidence today and the motion on the floor, with the motion maker and second concurring.

Supervisors Gibson and Hill: state their opposition to the findings presented; they are not supportive by facts on the record; the traffic study says the traffic impacts will not be significant; and there is no evidence that this project will increase crime.

The Board makes the following findings to uphold the appeal: CEQA Review: A. This project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves; Minor Use Permit: B. The proposed project does not comply with applicable sections of the County Land Use Ordinance, Title 22 of the County Code, because, for the reasons described below, the required findings under sections 22.62.050(C) and 22.62.060(C)(4) cannot be made: i. Testimony of nearby neighbors and the adjoining Mayor of the City of Santa Maria detail concerns with crime, drug use and impact on the health, safety and welfare of the general public and the community of Nipomo, including: a. Petition signed by 36 residents of Nipomo Mesa opposing the facility based on public safety and other grounds. b. Extensive delay in response time for the SLO County Sheriff, estimated to be between 10 and 13 minutes. c. SLO County Sheriff, SLO County District Attorney, Santa Barbara County Sheriff, and City of Santa Maria Police Chief opposing the facility based on concerns that the facility could lead to increased crime and related service demands. ii. The traffic on Hutton Road will be adversely impacted by the proposed facility. Traffic studies suggest the heaviest hours of activity for the facility will be PM peak hours between 4 and 6 PM. Submitted photos of delays on Hutton Road show a line of cars in the PM peak hours queuing north from the intersection with Highway 166 such that cars are delayed 13 minutes getting to this intersection. The proposed facility will contribute to this delay. iii. Concerns with robberies, burglaries and assaults, reported to occur with respect to dispensaries; C. The proposed dispensary would be incompatible with the health, safety or welfare of persons residing or working in the neighborhood of the use for the reasons described above under Finding B; D. The proposed dispensary would be detrimental or injurious to property or improvements in the vicinity of the use because, based on law enforcement testimony, the project could increase crime in the surrounding area, and because of the reasons described above under Finding B; E. The proposed dispensary will be inconsistent with the character of the immediate neighborhood and/or contrary to its orderly development for reasons described above under Finding B; F. The State has adopted three new statutes (AB 243, AB 266 SB 643) which regulate the sale and growing of marijuana for medicinal purposes. (Among other things the new laws regulate dosages, labeling, restrictions on and testing for pesticide use, for example). The State has yet to adopt regulations required by the statutes. These regulations, which are not yet in effect, will be necessary to ensure proper growing, testing, manufacturing, distributing, and labeling of medical marijuana to protect public health, safety, and welfare. Approval of this project prior to implementation of these regulations could adversely affect public health, safety, and welfare; and G. Medical marijuana is readily available to eligible patients through delivery services. Furthermore, RESOLUTION NO.2015-293, a resolution upholding the appeal of James Bigelow, reversing the decision of the Planning Commission and denying the Application of Ethnobotanica for Minor Use Permit DRC2014-00070, adopted as amended.

Motion by: Lynn Compton
Second by: Debbie Arnold

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Arnold, Debbie (Chairperson)	x			
Compton, Lynn (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)		x		
Hill, Adam (Board Member)		x		

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.

I, **TOMMY GONG**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, November 03, 2015, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

TOMMY GONG, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors

By: /s/ Annette Ramirez, Deputy Clerk-Recorder

DATED: November 30, 2015